

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-OR-060
)	
Marion R. Williams)	NAL/Acct. No.200332620014
Licensee of AM Broadcast Station WONG)	
in Canton, Mississippi)	FRN 0008-5822-31
Gary, Indiana)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 14, 2003

By the Enforcement Bureau, New Orleans Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Marion R. Williams (“Williams”), licensee of AM radio station WONG, Canton, Mississippi, apparently liable for a forfeiture in the amount of seventeen thousand dollars (\$17,000) for willful violation of Sections 73.49 and 73.3526(c)(1) of the Commission's Rules (“Rules”).¹ Specifically, we find Williams apparently liable for failing to enclose the station's antenna tower within an effective locked fence or other enclosure and failing to make most required items in the station's public inspection file available for inspection during regular business hours.

II. BACKGROUND

2. On February 26, 2003, an agent from the FCC Enforcement Bureau's New Orleans Office inspected AM station WONG licensed to Canton, Mississippi. The agent observed that the structure enclosing the antenna tower, that had radio frequency potential at the base, was ineffective in preventing access. The structure observed was a rectangular wooden frame that had large holes and gaps which a person could easily step through. Likewise, the property did not have a perimeter fence to prevent unauthorized access to the antenna tower. In addition, the station general manager could not make available for inspection most of the documents required to be maintained in the station's public inspection file. Documents not available for inspection included a copy of the service contour map, a copy of the most recent ownership report, the Public and Broadcasting Manual, letters from the public, and the issues/programs lists.

III. DISCUSSION

3. Section 73.49 of the Rules states that antenna towers having radio frequency potential at the base must be enclosed within effective locked fences or other enclosures. On February 26, 2003, the

¹ 47 C.F.R. §§ 73.49 and 73.3526(c)(1).

structure at the base of the antenna tower for station WONG was ineffective in preventing access to the antenna tower.

4. Section 73.3526(c)(1) states that the public inspection file required by Section 73.3526(a) shall be available for public inspection at any time during regular business hours. On February 26, 2003, station personnel were unable to make most documents required to be in the public inspection file available for inspection during regular business hours.

5. Based on the evidence before us, we find Williams willfully² violated Sections 73.49 and 73.3526(c)(1) of the Rules by failing to enclose the station's antenna tower within an effective locked fence or other enclosure and failing to make most documents required to be in the station's public inspection file available for inspection during regular business hours.

6. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for violations involving AM tower fencing is \$7,000 and the base forfeiture amount for public inspection file violations is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a \$17,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ Marion R. Williams is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of seventeen thousand dollars (\$17,000) for willful violation of Sections 73.49 and 73.3526(c)(1) of the Rules by failing to enclose the station's antenna tower within an effective locked fence or other enclosure and failing to make the station's public inspection file available for inspection during regular business hours.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Marion R. Williams SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Marion R. Williams, 7606 Harold Avenue, Gary, Indiana, 46403

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director, New Orleans Office
Enforcement Bureau

Attachment

⁷ See 47 C.F.R. § 1.1914.